

JOSEPH P. RUSSONIELLO (CASBN 44332)
United States Attorney

BRIAN J. STRETCH (CASBN 163973)
Chief, Criminal Division

JOSEPH A. FAZIOLI (ILSBN 6273413)
Assistant United States Attorney

150 Almaden Boulevard, Suite 900
San Jose, California 95113
Telephone: (408) 535-5061
Facsimile: (408) 535-5081
E-Mail: joseph.fazioli@usdoj.gov

Attorneys for the United States

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.)
)
KENNETH VAN AALSBURG,)
)
Defendant.)

No. CR 07-00603 JW

STIPULATION AND [PROPOSED]
ORDER CONTINUING HEARING AND
EXCLUDING TIME UNDER THE
SPEEDY TRIAL ACT

This matter is scheduled before the Court for trial setting on April 14, 2008. The parties now jointly request a brief two week continuance to allow the defense a further opportunity to review discovery. The United States has produced to defense counsel discovery materials related to defendant's alleged possession of child pornography. The parties have also been recently engaged in a series of conversations regarding supplemental requests for information from the defense regarding the discovery in this case. Defense counsel would like an additional opportunity to review discovery materials prior to the next calling of the case, and to discuss these materials with his client as well as a retained expert. In addition, undersigned government counsel has a scheduling conflict that now prevents him from attending the previously scheduled hearing on April 14, 2008. The parties anticipate that if this matter were to be continued to April

28, 2008, the parties would be prepared on that date to either present a negotiated settlement to the court or, in the alternative, set the matter for trial or motion practice. It is the parties' understanding that the Court is available for a trial setting hearing on April 28, 2008.

In light of the above, the parties jointly request a continuance until April 28, 2008 to allow defense counsel the reasonable time necessary to confer further with his client and discuss the discovery materials in this case in order to effectively prepare. The parties agree, and the Court finds and holds, as follows:

1. The April 14, 2008 trial setting hearing is continued to April 28, 2008.

2. The time between April 14, 2008 and April 28, 2008 is excluded under the Speedy Trial Act. The parties agree that the failure to grant the requested continuance would unreasonably deny defense counsel reasonable time necessary for effective preparation, taking into account the exercise of due diligence. Finally, the parties agree that the ends of justice served by granting the requested continuance outweigh the best interest of the public and the defendant in a speedy trial and in the prompt disposition of criminal cases. 18 U.S.C. § 3161(h)(8)(A).

IT IS SO STIPULATED

DATED: 4/7/08

/s/
DANIEL L. BARTON
Attorney for Defendant Van Aalsburg

DATED: 4/7/08

/s/
JOSEPH A. FAZIOLI
Assistant United States Attorney

IT IS SO ORDERED.

DATED: April 9, 2008


JAMES WARE
UNITED STATES DISTRICT JUDGE